



CITY OF DURHAM | DURHAM COUNTY  
NORTH CAROLINA



**Date:** October 16, 2017

**To:** Thomas J. Bonfield, City Manager  
**Through:** Keith Chadwell, Deputy City Manager  
**From:** Patrick O. Young, AICP, Planning Director  
**Subject:** *Unified Development Ordinance* Text Amendment, Compact Neighborhood Interim Affordable Housing Bonuses (TC1600005)

**Summary.** The purpose of this report and presentation is to receive comments from the City Council regarding proposed revisions to the Unified Development Ordinance (UDO) to existing affordable housing incentives in Compact Neighborhood Tiers. These incentives are intended as interim strategies to encourage development of affordable housing in transit areas prior to the establishment of a long-term approach.

**Recommendation.** The staff recommends that the City Council receive this draft text amendment for review and provide comment and policy direction.

**Background.** In May 2015 the City Council adopted a resolution in support of affordable housing in planned transit areas. The resolution laid out a goal that at least 15 percent of housing units within one-half mile of light rail transit stations be affordable to households with incomes less than 60% of area median income (AMI).

In support of that goal, elected officials later that year adopted a density bonus to encourage the development of affordable housing in rail transit areas known as Compact Neighborhoods. The bonus was intended to make voluntary inclusion of affordable housing more attractive to private developers by allowing an additional three market-rate units for every one unit of affordable housing built (3:1). While this was an important initial step, recent experience is that most developers of multi-family housing have requested to rezone to a higher intensity zoning district with a voluntary proffer of affordable housing contributions (e.g. units, land, and money), rather than utilize the 3:1 density bonus program.

The Planning Department is moving towards a wholesale rezoning of Compact Neighborhoods along the Durham-Orange Light Rail Transit (D-O LRT) corridor to form-based design districts, with the goal of promoting density, mixed use and walkability that is associated with transit-oriented development. Doing so advances many of the City and County goals, including fiscally responsible growth management; however, it is also likely to increase the value of land, making it even more expensive and challenging to create affordable units.

Paired with efforts to rezone, a coordinated and long-term strategy to create and preserve affordability is needed for Compact Neighborhoods along the transit corridor. Such a strategy, however, may take several years to develop and take effect. This text amendment is intended to produce an interim approach to encouraging developers of multi-family housing to include affordable units into their projects.

As described in the 2016-2021 Affordable Housing Goals (Strategy 1.e), Enterprise Community Partners proposed the Planning Department further explore an enhanced density bonus incentive. Over the past year, Planning staff has studied existing zoning regulations, engaged developers to create financial models to test feasibility, and held community meetings. The results are draft regulatory incentives for affordable housing that aim to create a more efficient process by providing clear and predictable rules to follow.

A version of the draft text amendment was reviewed by the JCCPC on August 2, 2017. Based on the discussion, Planning staff has revised the text relating to affordability periods, parking requirements, and has outlined three alternative methods of meeting affordability requirements that are intended for further discussion. Key features of the proposed text amendment to the UDO are outlined below. See Attachment A for the complete draft text amendment TC1600005.

To qualify for the affordable housing bonuses, projects of at least 15 total units must be in eligible locations and meet requirements for affordability and design:

- *Eligible Locations.* Properties must be located in a Compact Neighborhood Tier and multi-family housing must be a permitted use within the existing zoning district. This includes a number of non-residential zoning districts, such as Office and Institutional (OI), but excludes industrial zoning districts and single-family residential zoning districts.
- *Affordability Requirements.* Based on feedback from the JCCPC, staff has developed three alternative methods to meet affordability requirements. These alternatives are intended for further discussion.
  - Alternative A “Resolution” – To meet the specific targets of the Resolution, at least 15 percent of the total units must be affordable<sup>1</sup> to households earning 60 percent or less of AMI.
  - Alternative B “Public Participation” – To acknowledge that the targets set in the Resolution are financially challenging to meet in the current market without additional public participation, the City Council will be offered the option of being a financial participant in projects where at least 15 percent of the total units are affordable to households earning 60 percent of AMI. If the City Council opts not to participate financially, the bonus would then apply to

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<sup>1</sup> Housing is considered affordable if the cost of housing plus utilities does not exceed 30 percent of the household’s income.

a project if at least 15 percent of the total units are affordable to households earning 80 percent of AMI.

- Alternative C “Average AMI” – To allow for a mix of incomes and to offer flexibility in project development, at least 15 percent of the total units must be affordable to households earning an average of 70 percent AMI.<sup>2</sup>
- *Design Requirements.* Basic design district regulations must be met. These are intended to promote walkable urban design and include the following principles:
  - Buildings are placed on the site to create sense of human-scaled design;
  - Visual interest of buildings is created through the use of windows and doors;
  - Primary entrances engage the street;
  - Pedestrian activity is encouraged with accessible sidewalks; and
  - Pedestrian experience is enhanced through streetscape amenities.

Additionally, per UDO Section 6.6.1.D, the affordable units cannot be distinguishable from the market-rate units through the location, grouping or exterior design.

If the above requirements are met, the project would be eligible for the following bonuses:

- *Density.* Density up to 75 units per acre is allowed. If the existing zoning district already allows density that exceeds 75 units per acre, the higher of the two is allowed.
- *Height.* Height up to 90 feet is permitted unless the project is within 75 feet of the Urban Tier or 150 feet of the Suburban Tier and the adjacent zoning or use is for single-family residential. In those instances, the maximum height is 50 feet. If the existing zoning district already allows more height, the higher of the two is allowed.
- *Parking.* Required parking is waived for all uses included in the project.

#### Issues.

- *Impact of incentives will be limited in the short term, especially without additional public participation or without a major shift in the cost of construction.* The model pro-forma that was created with the help of a developers’ focus group showed that, in today’s real estate market, market rate multi-family housing developments are built with very slim financial margins. On their own, density and height bonuses are not likely sufficient to fill the revenue gap that is created when units are offered at below market rents. In other words, absent additional public financial support or a major shift in the cost of construction, there is likely limited application of the proposed bonuses by the private market. However, non-profit or public agencies may be well positioned to utilize the bonuses in particular circumstances. Alternative B “Public Participation” is intended to address the revenue gap issue.

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<sup>2</sup> The Coalition for Affordable Housing and Transit advocate that 15% of the total units be affordable to households earning an average of 60 percent AMI.

- *Economic conditions vary significantly across Compact Neighborhoods.* The D-O LRT is planned to serve a broad cross-section of Durham, from Leigh Village which is primarily a rural landscape to Ninth Street, a highly developed urban area next to a major institution. Land prices, rents, and current zoning districts also vary significantly across Compact Neighborhoods, which can greatly influence the decisions developers make. In short, the potential impact of these incentives may be felt differently across Compact Neighborhoods. A long term strategy could address these differences.
- *Income Threshold.* To be consistent with the City and County Affordable Housing Resolution, Alternative A of the draft text amendment calls for units to be affordable for households earning 60 percent of AMI or less; however, model pro-formas (i.e. financial spreadsheets) show that, at the 60 percent AMI income threshold, it is challenging for developers to make up the gap in revenues collected from rents that is created when income restricted units are incorporated. The City Charter allows density bonuses for low and moderate income households, which includes a much broader range of incomes (50-115 percent of AMI). The tradeoff between achieving the specific income targets of the Affordable Housing Resolution and the reality of producing affordable units for households at moderate income brackets (80 percent AMI, for example) should be discussed. Alternative C “Average AMI” is intended to address this issue.
- *Affordability Period.* The Coalition for Affordable Housing and Transit has advocated for a minimum affordability period of 30 years, as opposed to the 15 year time frame that is currently stipulated in the UDO. Planning staff agrees that the 15 year time frame is short, considering light rail isn’t expected to be operational until 2029.
- *Administrative approval.* If approved, the density and height bonuses for affordable housing would be administered at the site plan process. This means that developers opting to use the bonus would be able to forego a rezoning process that is often long, expensive and uncertain. It also means that development projects with higher densities and heights than what has been allowed under current zoning could be approved without public notice or public hearing.
- *Parking.* More so than revenue gap created by the inclusion of affordable units, it appears the high cost of structured parking affects the feasibility of multi-family residential development. In 2015, a text amendment to the UDO eliminated required parking for affordable units in the Compact Neighborhood Tier. While this was an appropriate first step, the JCCPC requested staff explore the elimination of required minimum parking for market rate units and other uses incorporated into the project. Staff agrees that while private lenders may still require parking as a component of the project, removing parking as a regulatory barrier to affordable housing is appropriate.
- *Potential Consequences of proposed interim approach becoming the long-term strategy.* While it is impossible to predict how developers will react to future market

conditions, two commonly discussed potential negative consequences of suppressing base densities in Compact Neighborhoods are:

- Low Density. Because incorporating affordable housing is expensive and administratively difficult, and different from standard practice, developers could opt to build without utilizing the bonus. The result would be lower density development near transit stations, which would not be aligned with the goal of creating compact neighborhoods or maintaining affordable housing choices. With a limited housing supply in high demand areas, the price of all housing would escalate.
  - Pressure on neighborhoods outside of Compact Neighborhoods. If developers do not find that they can make an economically viable project even with the density and height bonuses, they may opt to build either a nonresidential development or build housing outside of the Compact Neighborhood Tier. While non-residential development can be good for transit ridership, particularly within 600 feet of the transit station, it could add development pressure on neighborhoods just outside of Compact Neighborhood Tiers that are already experiencing rising housing prices.
- *Future project.* Density and height bonuses for affordable housing are likely to be used for large-scale multi-family developments. During the community engagement process, several questions were asked about incentives for smaller landowners or developers. Many of these questions came from individuals in neighborhoods outside of Compact Neighborhoods who may well see increased development pressure and rising housing costs. As part of the FY18 Work Plan, Planning staff is beginning to examine other tools to expand affordability by design in areas outside of Compact Neighborhood Tiers.

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**Attachment:**

Attachment A, Draft Text Amendment TC1600005, Compact Neighborhood Affordable Housing Bonuses